

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HORACE ABNEY,

Plaintiff,

**DECLARATION OF  
HORACE ABNEY**

- against -

JOHN MCGINNIS, MARIO MALVAROSA, PAUL  
WILSON, ANN ARCKERT, MICHAEL DIPOMPO, and  
JOHN and JANE DOE,

01 Civ. 8444 (SAS) (FM)

Defendants.

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**HORACE ABNEY**, the plaintiff herein, hereby deposes and swears under penalty of perjury as follows:

1. Although the sneakers did not hurt my feet in the same way that the boots did, the sneakers did not provide enough support for my feet and ankles, which caused me severe pain and hastened the deterioration of my condition.

2. Although the sneakers were roomier than the boots, the defective arches still caused me severe pain, regardless of whether I used them in the sneakers or the boots.

3. I never requested that Mr. DiPompo give me a smaller pair of boots.

4. I never told Mr. DiPompo that the first arches broke while I was playing basketball.

5. I only played baseball and basketball occasionally, because I was usually in too much pain because of my foot condition.

6. I never refused to wear my original shoes because the State would not reimburse me for them.

7. Every time that Mr. DiPompo came to see me, I told him that the boots were too tight and that the arches were defective, and that, as a result, I was experiencing terrible pain.

8. At no time did the arches fit well within any pair of boots.

9. In addition to the formal sick call visits that I had with P.A. Wilson, I very often spoke with him informally and complained each time about my foot condition.

10. Nurse Eckert was present at the beginning and end of each visit that I had with Mr. DiPompo.

11. During a several month period that began in July 2000, I spoke with defendants Malvarosa and Wilson repeatedly about the chronic pain in my feet, ankles, knees, hips, and back.

12. On May 8, 2001, Mr. DiPompo brought me arch supports that were so thick that I could barely get my feet into the boots.

13. When I advised Mr. DiPompo of this fact, he told me that I would just have to get used to it.

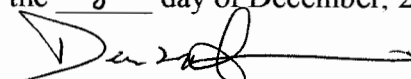
14. This particular combination of boots and arches caused my feet to swell so badly that I could keep the arches in for only five minutes at a time.

15. The orthotic specialist who I saw at Green Haven told me that my arch supports were defective and that he understood why I was experiencing so much pain.

Dated: East Meadow, New York  
December 8, 2006

By:   
HORACE ABNEY

Sworn to before me on  
the 8 day of December, 2006

  
Notary Public

DENIS M. KLEIN  
Notary Public, State of New York  
No. 01KL6049072  
Qualified in Nassau County  
Commission Expires Oct. 2, 2012